IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

-

WRIT PETITION NO : 17746 of 2004

Between:

T.Gowreshwar Rao, S/o Sri T.Venkat Naidu,
O/o The Deputy Executive Engineer,

A.P. State Housing Corporation, Vangara,
Palakonda, Srikakulam District

..... PETITIONER

AND

1. The Collector / Executive Director,

A.P. State Housing Corporation Ltd.
Srikakulam
2. The District Manager, A.P. State Housing Corporation Ltd.
Srikakulam.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, Order or direction, declaring the action of the first respondent in issuing the impugned proceedings Rc.No.33/2002/E/HC dated 2-9-2004 ordering recovery of Rs.1,68,600/- from the monthly salary of the petitioner as illegal, arbitrary, violation of principles of natural justice and contrary to A.P.C.C.A.Rules 1991 and further direct the respondent No.1 to follow the procedure laid down under APCCCA Rules and that they cannot insist for payment of amount as per the impugned proceedings dated 2-9-2004.

Counsel for the Petitioner: MR.C.RAGHU

Counsel for the Respondents: MR.V.CH.NAIDU

The Court at the stage of admission made the following

ORDER:

The petitioner is working as a Work Inspector under the second respondent-Corporation. He was issued a charge memo on 31-03-2003 alleging that the petitioner misappropriated 1355 bags of cement, worth of Rs.1,62,500/- and 375 kgs. of steel, worth of Rs.6,000/-. The petitioner submitted an explanation on 04-06-2003 and after submission of the explanation by the petitioner, the first respondent passed the impugned order on 02-09-2004 ordering recovery of the amount on the ground that the petitioner misappropriated the cement and steel.

The petitioner being aggrieved by the order of the first respondent approached this Court through Writ Petition challenging its validity and legality. Though the charge memo was issued on the petitioner regarding the alleged misappropriation, no enquiry was conducted as contemplated under Rule 22 of the C.C.A. Rules. As the recovery of the amount alleged to be misappropriated amounts to major penalty, passing the impugned order without conducting any enquiry as contemplated under Rule 22 of the C.C.A. Rules is in violation of the procedure prescribed under Law. Therefore, the impugned order dated 02-09-2004 is liable to be set aside.

The Writ Petition is accordingly allowed and the order of the first respondent dated 02-09-2004 is set aside. This order will not preclude the first respondent to pass appropriate orders against the petitioner regarding the alleged misappropriation, after following the procedure prescribed under Rule 22 read with Rule 9 of the C.C.A Rules, and after giving opportunity to the petitioner. No costs.

Dr.G.Yethirajulu, J

1st October, 2004

lsn

To

1. The Collector / Executive Director,

A.P. State Housing Corporation Ltd.
Srikakulam

2. The District Manager, A.P. State Housing Corporation Ltd.
Srikakulam.

3. Two CD copies